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AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 17, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1532**

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**Introduced by Assembly Member John A. Pérez**

**(Coauthors: Assembly Members Blumenfield, Bonilla, Bradford, Butler, Carter, Chesbro, Dickinson, Gordon, Roger Hernández, Hill, Bonnie Lowenthal, Monning, Skinner, Wieckowski, Williams, and Yamada)**

January 23, 2012

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An act to add Part 8 (commencing with Section 38700) to Division 25.5 of the Health and Safety Code, relating to greenhouse gas emissions.

### **LEGISLATIVE COUNSEL’S DIGEST**

AB 1532, as amended, John A. Pérez. California Global Warming Solutions Act of 2006: Greenhouse Gas Reduction Fund.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions

level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emissions reductions. The act authorizes the state board to include use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board from the auction or sale of allowances as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation by the Legislature.

This bill would require the moneys in the Greenhouse Gas Reduction Fund to be used for specified purposes. The bill would require administering agencies, including the state board and any other state agency identified by the Legislature, to allocate those moneys to measures and programs that meet specified criteria. The bill would require the California Environmental Protection Agency to develop a methodology that identifies priority community areas for investment opportunities, as specified. The bill would require the state board to develop, as specified, 3 investment plans that include specified analysis and information, to submit each plan to the budget committees of each house of the Legislature, as specified, and to adopt each investment plan, as specified. The bill would require the Governor to submit a budget to the Legislature that includes specified appropriations consistent with each investment plan and would require the Legislature to consider these appropriations when adopting the Budget Act. The bill would require the state board to submit a report no later than December 1 of each year to the appropriate committees of the Legislature containing specified information *and to hold old one public hearing on the report prior to its submission to the Legislature.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Part 8 (commencing with Section 38700) is added  
2 to Division 25.5 of the Health and Safety Code, to read:

3

4 PART 8. GREENHOUSE GAS REDUCTION FUND

5

6 38700. For purposes of this part, the following terms have the  
7 following meanings:

1 (a) “Fund” means the Greenhouse Gas Reduction Fund, created  
2 pursuant to Section 16428.8 of the Government Code.

3 (b) “Qualified recipients” means public agencies, businesses,  
4 nonprofit organizations, academic institutions, public-private  
5 partnerships, and workforce training partnerships.

6 ~~38702. (a) The state shall not approve funding for a measure  
7 or program using moneys appropriated from the fund except after  
8 determining, based on the available evidence, that the use of those  
9 moneys for that measure or program is consistent with the  
10 requirements for the use of moneys derived from valid regulatory  
11 fees, as established by the California Supreme Court in *Sinclair  
12 Paint Co. v. State Bd. of Equalization* (1997) 15 Cal.4th 866.~~

13 ~~(b)~~

14 ~~38702. (a)~~ It is the intent of the Legislature that moneys shall  
15 be appropriated from the fund only in a manner consistent with  
16 the requirements of this part and Article 9.7 (commencing with  
17 Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of  
18 the Government Code.

19 ~~(c)~~

20 (b) Moneys shall be used to facilitate the achievement of feasible  
21 and cost-effective reductions of greenhouse gas emissions in this  
22 state consistent with this division and, where applicable and to the  
23 extent feasible, do all of the following:

24 (1) Maximize economic, environmental, and public health  
25 benefits to the state.

26 (2) Foster job creation by promoting in-state greenhouse gas  
27 emissions reduction projects carried out by California workers and  
28 businesses.

29 (3) Complement efforts to improve air quality.

30 (4) Direct investment toward the most disadvantaged  
31 communities and households in the state.

32 (5) Provide opportunities for small businesses, schools,  
33 affordable housing developers, water *and wastewater* agencies,  
34 local governments, and other community institutions to participate  
35 in and benefit from statewide efforts to reduce greenhouse gas  
36 emissions.

37 (6) Mitigate the impacts and effects of climate change on the  
38 state’s communities, economy, and environment.

39 ~~(d)~~

(c) Moneys appropriated from the fund may be allocated, consistent with subdivision (a), for the purpose of reducing greenhouse gas emissions in this state through investments that may include, but are not limited to, any of the following:

(1) Investments in clean and efficient energy, including, but not limited to, any of the following:

(A) Industrial and manufacturing facilities to reduce greenhouse gas emissions by investment in energy efficiency, energy storage, and clean and renewable energy projects.

(B) Public universities, schools, water *and wastewater* agencies, *local governments*, and other public facilities and fleets and their energy suppliers to reduce greenhouse gas emissions by investment in energy and water use efficiency, energy storage, and clean and renewable energy and fuel projects.

(C) Single-family and multifamily residential and commercial distributed generation and energy efficiency programs that serve to reduce greenhouse gas emissions, including, but not limited to, the federal Energy Efficiency and Conservation Block Grant Program, established pursuant to Section 542 of the federal Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17152), the program established pursuant to Section 25943 of the Public Resources Code, and the Weatherization Assistance Program (42 U.S.C. Sec. 6861 et seq.).

~~(D) Waste reduction and low-carbon recycled-content processing and manufacturing that serve to reduce greenhouse gas emissions, including market development activities.~~

*(D) Increasing the in-state diversion of municipal solid waste from disposal through waste reduction, reuse, and low-carbon, recycled-content processing, manufacturing, and other market development activities consistent with the policy goal established pursuant to subdivision (a) of Section 41780.01 of the Public Resources Code and that directly reduce greenhouse gas emissions.*

(2) Investments in low-carbon transportation, sustainable development, and infrastructure, including, but not limited to, any of the following:

(A) Public transportation and ~~sustainable transportation and~~ infrastructure development, including, but not limited to, ~~transportation~~ transit, bicycle, and pedestrian facilities.

(B) Programs for clean vehicles and the advancement of transportation technologies, including, but not limited to, the

1 Alternative and Renewable Fuel and Vehicle Technology Program  
2 (Article 2 (commencing with Section 44272) of Chapter 8.9 of  
3 Part 5 of Division 26) and the Air Quality Improvement Program  
4 (Article 3 (commencing with Section 44274) of Chapter 8.9 of  
5 Part 5 of Division 26).

6 (C) Advanced transportation and fueling infrastructure.

7 (D) Local and regional sustainable development efforts, such  
8 as planning, development, financing, and implementation of  
9 multielement transportation infrastructure *and rural infrastructure*  
10 *projects or other planning processes, including, but not limited to,*  
11 *the updating of general plans or the creation of specific plans,*  
12 consistent with the implementation of Section 65080 of the  
13 Government Code ~~and other greenhouse gas emissions plans or~~  
14 *other greenhouse gas emissions reduction strategies in local and*  
15 *regional plans, including, but not limited to, transit-oriented any*  
16 *of the following:*

17 (i) *Transit-oriented* residential development consistent with  
18 paragraph (4) of subdivision ~~(e)~~ (b).

19 (ii) *Transportation efficiency measures that expand transit*  
20 *service and transportation systems within existing developed areas*  
21 *to support infill development, and demand management strategies.*

22 (iii) *Improved transportation options and land use incentives,*  
23 *including, but not limited to, municipal infrastructure to support*  
24 *transit-oriented development and infill, multimodal connectivity,*  
25 *including, but not limited to, crossings, transit infrastructure and*  
26 *electrification, and other measures to assist in achieving the*  
27 *implementation of Section 65080 of the Government Code.*

28 (E) Low-carbon goods movement and freight vehicle  
29 technologies and infrastructure, including, but not limited to,  
30 locomotives and heavy-duty fleets.

31 (3) Investments in natural resource protection, including, but  
32 not limited to, any of the following:

33 (A) Natural resource management programs and projects,  
34 including, but not limited to, watershed projects with cobenefits  
35 of water quality, flood protection, and coastal and ocean protection.

36 (B) Land conservation, habitat restoration, or other stewardship  
37 activities, such as projects administered by state conservancies,  
38 *state and certified* local conservation corps *pursuant to Section*  
39 *14315 of the Public Resources Code,* and the Wildlife Conservation  
40 Board.

1 (C) Development and implementation of sustainable agriculture,  
2 forestry, *urban greening*, preservation, and open space programs.

3 (4) Investments in community climate innovation programs that  
4 foster the implementation of projects consistent with paragraphs  
5 (1), (2), and (3). Eligible applicants shall be cities, counties, cities  
6 and counties, charter cities, state conservancies, metropolitan  
7 planning organizations, regional climate authorities, special  
8 districts, air pollution control and air quality management districts,  
9 joint powers authorities, regional collaboratives, and nonprofit  
10 organizations ~~partnering~~ *coordinating* with local governments.

11 (5) Investments in research, development, and deployment of  
12 innovative technologies, measures, and practices related to  
13 programs and projects funded pursuant to this part.

14 38702.5. The California Environmental Protection Agency  
15 shall develop a methodology that identifies priority community  
16 areas for investment opportunities related to this part. These priority  
17 community investment areas shall be identified and updated no  
18 less than every two years, based on geographic, socioeconomic,  
19 and environmental hazard criteria, which may include, but not be  
20 limited to, any of the following:

21 (a) Areas disproportionately adversely affected by *and within*  
22 *close proximity to sources that produce high criteria and toxic air*  
23 *pollution levels*, environmental pollution, and *other hazards that*  
24 *can lead to negative public health effects, exposure, and*  
25 *environmental degradation*.

26 (b) Areas that contain or produce material that, because of its  
27 quantity, concentration, or physical or chemical characteristics,  
28 pose a significant hazard to human health and safety.

29 (c) Areas with concentrations of people that are of low income,  
30 high unemployment, low levels of homeownership, high rent  
31 burden, *sensitive populations*, and low levels of educational  
32 attainment.

33 38703. (a) The state board and any other state agency identified  
34 by the Legislature are the administering agencies for moneys  
35 appropriated in accordance with this part.

36 (b) (1) The administering agencies shall, upon appropriation  
37 by the Legislature, carry out a program to allocate moneys  
38 appropriated pursuant to this part through competitive grants,  
39 revolving loans, loan guarantees, loans, credit enhancements, or  
40 other appropriate funding measures to qualified recipients to reduce

1 greenhouse gas emissions consistent with subdivisions ~~(e)~~ and ~~(d)~~  
2 ~~(b)~~ and ~~(c)~~ of Section 38702.

3 (2) The state board shall develop guidelines for administering  
4 agencies for purposes of allocating moneys to projects that  
5 maximize benefits for priority community areas, as described in  
6 Section 38702.5.

7 (3) Administering agencies shall have the authority to set aside  
8 a percentage of their appropriated moneys from the fund for  
9 projects that maximize benefits to priority community investment  
10 areas, as described in Section 38702.5.

11 (4) In implementing this subdivision, administering agencies  
12 shall ensure the investments maximize the benefits described in  
13 subdivision ~~(e)~~ ~~(b)~~ of Section 38702 for investments to priority  
14 community investment areas, as described in Section 38702.5,  
15 through activities that include, but are not limited to, any of the  
16 following:

17 (A) Participatory program guideline development.

18 (B) Targeted solicitation outreach.

19 (C) Education and training efforts.

20 (D) Solicitation scoring criteria priority.

21 (c) Notwithstanding Chapter 3.5 (commencing with Section  
22 11340) of Part 1 of Division 3 of Title 2 of the Government Code  
23 and prior to the initial allocation of moneys in accordance with  
24 this part, the state board shall, after one or more public hearings,  
25 adopt guidelines to provide state agencies guidance as well as  
26 guidance to potential funding applicants and the public regarding  
27 the allocation and allowable uses of moneys. The guidelines shall,  
28 at a minimum, do all of the following:

29 (1) Establish minimum criteria for receiving funding and  
30 additional criteria, including, but not limited to, those identified  
31 in subdivision ~~(e)~~ ~~(b)~~ of Section 38702, that the state agencies shall  
32 take into account in establishing preferences for awarding moneys.

33 (2) Provide a process to verify the qualifications of recipients.

34 (3) Provide for the monitoring and, as deemed necessary, the  
35 audit of expenditures.

36 (4) Establish minimum criteria and provide for the tracking of  
37 outcomes.

38 (d) Any state agency that allocates moneys pursuant to  
39 subdivision (b) shall adopt guidelines that are consistent with the  
40 guidelines adopted by the state board pursuant to subdivision (c).

1 38704. (a) (1) The state board shall develop and adopt,  
2 beginning April 1, 2013, three investment plans for the following  
3 time periods: 2013 to 2014, 2015 to 2017, and 2018 to 2020. Each  
4 investment plan, consistent with the requirements of Section 38702,  
5 shall do all of the following:

6 ~~(A) Analyze existing programs and requirements that reduce~~  
7 ~~greenhouse gas emissions and identify gaps in those programs and~~  
8 ~~requirements.~~

9 ~~(B) Identify, for the specified time period, the anticipated~~  
10 ~~expenditures of moneys appropriated from the fund in accordance~~  
11 ~~with this part.~~

12 ~~(C) Establish priorities for the allocation of moneys.~~

13 ~~(D) Identify specific categories of programs and projects.~~

14 ~~(E) Identify proposed levels of expenditures for each category.~~

15 ~~(F) Identify the state agencies best qualified to implement the~~  
16 ~~programs pursuant to subdivision (c) of Section 38703.~~

17 ~~(G) Maximize benefits to priority community investment areas,~~  
18 ~~as described in Section 38702.5, through activities that include,~~  
19 ~~but are not limited to, any of the following:~~

20 ~~(i) Participatory program guideline development.~~

21 ~~(ii) Targeted solicitation outreach.~~

22 ~~(iii) Education and training efforts.~~

23 ~~(iv) Solicitation scoring criteria priority.~~

24 ~~(v) Fund set asides.~~

25 ~~(H)~~

26 (A) Identify the state's near-term and long-term greenhouse gas  
27 emissions reduction *goals and* targets by sector, including, but not  
28 limited to, an analysis of all of the following:

29 (i) Current and projected sector greenhouse gas emissions.

30 (ii) Progress toward achievement of sector greenhouse gas  
31 emissions reduction targets.

32 (iii) The sectors' greenhouse gas emissions reduction  
33 achievements as compared to state greenhouse gas emissions  
34 targets.

35 (iv) *Any additional greenhouse gas emissions reduction goals*  
36 *for sectors that do not have targets.*

37 ~~(I)~~

38 (B) List and describe the key measures and strategies that the  
39 state is relying on to achieve greenhouse gas emissions reductions



1 *goals and* targets by sector. For each measure and strategy, the  
2 state board shall include, at a minimum, all of the following:

3 (i) A description of expected greenhouse gas emissions  
4 reductions and other benefits anticipated from the measure's or  
5 strategy's implementation.

6 (ii) Current funding levels and sources for the measure or  
7 strategy, as applicable.

8 (iii) A projection of greenhouse gas emissions reductions and  
9 other impacts based on continued progress at current  
10 implementation schedules.

11 ~~(J)~~

12 (C) Analyze gaps, where applicable, in current state strategies  
13 to meeting the state's greenhouse gas emissions reduction goals  
14 by sector, including, but not limited to, all of the following:

15 (i) Funding.

16 (ii) Policies.

17 (iii) Compliance.

18 (iv) Market preparedness.

19 (v) State authority, local authority, or other relevant  
20 considerations.

21 ~~(K)~~

22 (D) Identify *priority* programmatic investments of moneys  
23 appropriated from the fund that will facilitate the achievement of  
24 feasible and cost-effective greenhouse gas emissions reductions  
25 toward achievement of *greenhouse gas* reduction *goals and* targets  
26 by sector, *consistent with subdivision (c) of Section 38702*,  
27 including, but not limited to, all of the following:

28 (i) The expected greenhouse gas emissions reductions and other  
29 cobenefits of the investment.

30 (ii) The administering agency that will implement the  
31 investment.

32 (iii) Other relevant information the state board deems appropriate  
33 to explain and justify the investment pursuant to Section 38702.

34 (E) *Maximize benefits to priority community investment areas,*  
35 *as described in Section 38702.5, through activities that include,*  
36 *but are not limited to, any of the following:*

37 (i) *Participatory program guideline development.*

38 (ii) *Targeted solicitation outreach.*

39 (iii) *Education and training efforts.*

40 (iv) *Solicitation scoring criteria priority.*

1 (v) *Fund set-asides.*

2 (2) *The state board shall, prior to adopting each investment*  
3 *plan, consult with the Public Utilities Commission to ensure the*  
4 *investment plan is coordinated with, and does not conflict with or*  
5 *unduly overlap with, activities under the oversight or*  
6 *administration of the Public Utilities Commission undertaken*  
7 *pursuant to Part 5 (commencing with Section 38570) or other*  
8 *activities under the oversight or administration of the Public*  
9 *Utilities Commission that facilitate greenhouse gas emissions*  
10 *reductions consistent with this division.*

11 ~~(2)~~

12 (b) The Public Utilities Commission shall develop and send to  
13 the state board a report to be included in each investment plan  
14 adopted by the state board pursuant to subdivision (a). The Public  
15 Utilities Commission's report shall include its requirements ~~on~~  
16 ~~how investor-owned utilities may regarding the use of any~~  
17 allowance auction moneys the investor-owned utilities might  
18 collect pursuant to a market-based compliance mechanism.

19 ~~(b) The state board shall, prior to adopting each investment plan,~~  
20 ~~consult with the Public Utilities Commission to ensure the~~  
21 ~~investment plan is coordinated with, and does not conflict with or~~  
22 ~~unduly overlap with, activities under the oversight or administration~~  
23 ~~of the Public Utilities Commission might adopt pursuant to Part~~  
24 ~~5 (commencing with Section 38570) or other activities under the~~  
25 ~~oversight or administration of the Public Utilities Commission that~~  
26 ~~facilitate greenhouse gas emissions reductions consistent with this~~  
27 ~~division.~~

28 (c) The state board shall receive input from an advisory body  
29 that shall provide information and oversight to the state board to  
30 assist in its adoption of each investment plan. The advisory body  
31 shall include the secretaries for the Natural Resources Agency, the  
32 California Environmental Protection Agency, the Department of  
33 Food and Agriculture, the Labor and Workforce Development  
34 Agency, and the Business, Transportation and Housing Agency.  
35 The state board shall hold at least two public workshops in different  
36 regions of the state and one public hearing prior to adopting any  
37 investment plan. The advisory body shall participate in each public  
38 workshop on an investment plan and provide testimony to the state  
39 board on each investment plan.

1 (d) The state board shall submit to the relevant committee of  
2 each house of the Legislature with jurisdiction over the state  
3 budget, 30 days prior to adoption, each investment plan proposed  
4 to be adopted pursuant to subdivision (a) or any amendment to an  
5 investment plan adopted pursuant to subdivision (a).

6 38705. (a) The state board shall annually provide to the  
7 Governor, concurrent with the submission required pursuant to  
8 Section 13320 of the Government Code, a plan consistent with the  
9 relevant investment plan adopted pursuant to Section 38704,  
10 detailing proposed appropriations from the fund.

11 (b) (1) As part of the Governor's annual budget submission to  
12 the Legislature, pursuant to subdivision (a) of Section 12 of Article  
13 IV of the *California* Constitution, the Governor shall include  
14 proposed appropriations consistent with the plan submitted  
15 pursuant to subdivision (a).

16 (2) If the state board, *in consultation with the California*  
17 *Environmental Protection Agency*, finds in its report to the  
18 Legislature, pursuant to Section 38706, that ~~an investment plan~~  
19 ~~the investments made pursuant to Section 38704 did not allocate~~  
20 ~~in the prior fiscal year did not result in~~ at least 25 percent of the  
21 available moneys from ~~the prior~~ that fiscal year *being allocated*  
22 to projects that provide benefits described in subdivision ~~(e)~~ (b)  
23 of Section 38702 to priority community investment areas, as  
24 described in Section 38702.5, *and that at least 10 percent of all*  
25 *of the available moneys from that fiscal year were not invested in*  
26 *projects located in priority community investment areas, as*  
27 *described in Section 38702.5*, then the Governor shall include as  
28 part of the Governor's annual budget submission to the Legislature,  
29 pursuant to subdivision (a) of Section 12 of Article IV of the  
30 *California* Constitution, allocations to administering agencies to  
31 make investments in eligible projects in priority community  
32 investment areas in an amount equal to the difference between the  
33 total investments in the prior fiscal year that benefited priority  
34 community investment areas and an amount equal to 25 percent  
35 of the total allocations from the prior fiscal year. This allocation  
36 shall not be considered part of the next fiscal year's priority  
37 community investment area considerations for purposes of this  
38 part and shall be separately identified in the Governor's annual  
39 budget submission to the Legislature to provide transparency to  
40 the investment.

1 (c) The Legislature shall consider adopting the appropriations  
2 submitted by the Governor pursuant to subdivision (b) as part of  
3 the annual Budget Act.

4 38706. (a) Notwithstanding Section 10231.5 of the  
5 Government Code, the state board shall submit a report on or before  
6 December 1 of each year to the appropriate committees of the  
7 Legislature on the status of projects *funded pursuant to this part*  
8 and their outcomes, any changes the state board recommends to  
9 the investment plan completed pursuant to Section 38705, and a  
10 description of how agencies have maximized the benefits of the  
11 investments to priority community investment areas, as described  
12 in Section 38702.5, including, but not limited to, the percentage  
13 of funds allocated to date and in the prior fiscal year that have been  
14 invested in projects in priority community investment areas and  
15 that have provided benefits, as defined in subdivision-(e) (b) of  
16 Section 38702, to priority community investment areas. It is the  
17 intent of the Legislature that the appropriations required for the  
18 implementation of these changes to the three-year investment plan  
19 shall be included in the annual Budget Act for the subsequent fiscal  
20 year.

21 (b) *The state board shall hold one public hearing on the report*  
22 *submitted pursuant to subdivision (a) prior to its submission to*  
23 *the Legislature.*

24 ~~(b)~~

25 (c) A report submitted pursuant to subdivision (a) shall be  
26 submitted in compliance with Section 9795 of the Government  
27 Code.